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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,962	11/08/2000	Bernhard Hauer	49041	7018

7590

10/17/2002

Keil & Weinkauff
1101 Connecticut Avenue NW
Washington, DC 20036

EXAMINER

WESSENDORF, TERESA D

ART UNIT

PAPER NUMBER

1639

DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,962

Applicant(s)

HAUER ET AL.

Examiner

T. D. Wessendorf

Art Unit

1627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1627

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, drawn to a peptide fragment.

Group II, claim(s) 7, drawn to a fusion protein.

Group III, claim(s) 8,9, drawn to nucleic acid encoding a peptide fragment.

Group IV, claim(s) 10-11, drawn to a nucleic acid encoding a fusion protein and vectors.

Group V, claim(s) 12, drawn to a process of preparing fusion proteins.

Group VI, claim(s) 13, drawn to process of purifying fusion proteins.

Group VII, claim(s) 14,18, drawn to use of a protein. (These claims are duplicates of one another).

Group VIII, claim(s) 15-16, drawn to a process of preparing protein fragments by DNA library.

Group IX, claim(s) 17, drawn to a method of detecting protein.

Art Unit: 1627

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I drawn to peptides containing amino acid residues do not have the same corresponding special technical features of Group II nucleic acid structure or Group III fusion protein comprising another or an additional, structurally different component of a fusion protein.

The inventions listed as Groups V-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: each of the processes in Groups V-IX do not have the same special technical features as these processes are drawn to different methods of making each of the structurally different products e.g., peptide, nucleic acid or fusion protein.

The inventions listed as Groups I-IV and V-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Groups I-IV, which are compound claims, do not have the same corresponding special technical feature of each of the processes of Groups V-IX. The peptide fragments of Group I, for example, can be produced by chemical synthetic process.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Peptide species included in the claim 1. Example of these species are recited in claim 6

Art Unit: 1627

Applicant is required, in reply to this action, to elect a **single** species (e.g., in claim 6) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner: 1-6.

The following claim(s) are generic: 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each of the species do not have the same corresponding amino acid residues at each position of the peptide sequence as evident from the species recited in claim 6.

Art Unit: 1627

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventor ship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventor ship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

REASSIGNMENT AFFECTING LOCATION

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1639.

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.

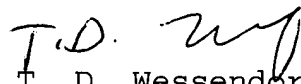
Art Unit: 1627

6. Confirmation number (See MPEP § 503).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. D. Wessendorf whose telephone number is (703) 308-3967. The examiner can normally be reached on Flexitime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (703) 308-2439. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7924 for regular communications and (703) 308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


T. D. Wessendorf
Primary Examiner
Art Unit 1627

tdw
October 16, 2002